

Paul Duffy (Bar No. 224159)  
 2 N. LaSalle Street, 13<sup>th</sup> Floor  
 Chicago, IL 60601  
 Phone: (312) 952-6136  
 E-mail: paduffy@wefightpiracy.com  
*Attorney for Plaintiff*

IN THE UNITED STATES DISTRICT COURT FOR THE  
 NORTHERN DISTRICT OF CALIFORNIA

AF HOLDINGS LLC,

Plaintiff,

v.

JOE NAVASCA,

Defendant.

**Case No.**

3:12-cv-2396

*EX PARTE*

**APPLICATION TO FILE AFFIDAVIT  
 UNDER SEAL**

Judge: Hon. Edward M. Chen

Magistrate Judge: Hon. Nandor J. Vadas

AF Holdings, LLC (“AF Holdings”) hereby applies to this Court for an order granting it leave to file an affidavit of its principal, Mark Lutz, under seal. This Court, in setting an evidentiary hearing on Defendant’s motion for sanctions, directed, among other things, that a representative of AF Holdings provide certain information set forth in the Court’s Order. Mr. Lutz attempted to travel to San Francisco, California from Miami Beach, Florida in order to testify as a witness at the August 28 hearing. HE has informed counsel for Plaintiff that, for reasons beyond Mr. Lutz’ control, he was unable to board his plane from Miami Beach to San Francisco.

Mr. Lutz thus indicates that he attempted in good faith to be present as a witness at the August 28 evidentiary, and that he wishes to explain to the Court the reasons for his absence, but the reasons are of a very sensitive nature and would

1 expose Mr. Lutz to undue scrutiny, particularly in this case, where counsel for  
2 Defendant has artificially publicized its importance throughout the country. Plaintiff  
3 therefore respectfully requests that this Court grant its representative Mr. Lutz leave  
4 to file, under seal, an affidavit explaining and justifying his absence at the August 28,  
5 2013 hearing. Plaintiff also respectfully requests that the Court grant leave for Mr.  
6 Lutz to file an affidavit to address those matters that the Court requested that he  
7 address at the evidentiary hearing.  
8

9  
10 DATED: September 5, 2013

Respectfully submitted,  
AF Holdings, LLC

11 By: s/ Paul A. Duffy  
12 *One of its attorneys*  
13 Paul A. Duffy, Esq.  
14 2 N. LaSalle Street  
15 13<sup>th</sup> Floor  
16 Chicago, IL 60602  
17 (312) 952-6136  
18 pduffy@pduffygroup.com  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 5, 2013, all individuals of record who are deemed to have consented to electronic service are being served a true and correct copy of the foregoing document, and all attachments and related documents, using the Court's ECF system.

By: s/ Paul A. Duffy